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9

10 UNITED STATES DISTRICT COURT  
11 NORTHERN DISTRICT OF CALIFORNIA  
12 SAN JOSE DIVISION  
13

14 *IN RE: ZOOM VIDEO COMMUNICATIONS*  
15 *INC. PRIVACY LITIGATION,*

16  
17 This Documents Relates To:  
All Actions /  
18

Master Case No. 5:20-cv-02155-LHK

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**DECLARATION OF KATHLEEN HARTNETT  
IN SUPPORT OF ZOOM VIDEO  
COMMUNICATIONS, INC.'S MOTION TO  
ADJUST CASE DEADLINES PURSUANT TO  
L.R. 6-3**

1           **DECLARATION OF KATHLEEN HARTNETT PURSUANT TO LOCAL RULE 6-2**

2           I, Kathleen Hartnett, declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the  
 3 following statements are true:

4           1.       I am an attorney duly licensed to practice before all courts of the State of California,  
 5 this Court, as well as other state and federal courts. I am a member of the firm Cooley LLP. I have  
 6 personal knowledge of the matters stated herein and, if called upon, I could and would competently  
 7 testify regarding those matters. I respectfully submit this declaration in support of the motion of  
 8 Defendant Zoom Video Communications, Inc. (“Zoom”) to adjust case deadlines.

9           2.       On July 17, 2020, the Court issued an Order Adopting Proposed Briefing Schedule;  
 10 Denying Request to Stay Discovery; Continuing Case Management Conference (“July 17  
 11 Scheduling Order”) (ECF No. 113). The July 17 Scheduling Order required: a consolidated  
 12 amended complaint to be filed on or before July 30, 2020; any motion to dismiss to be filed on or  
 13 before September 14, 2020; and any opposition to the motion to dismiss to be filed on or before  
 14 October 14, 2020.

15           3.       On July 30, 2020, Plaintiffs Saint Paulus Lutheran Church, Heddi N. Cundle, Lisa  
 16 T. Johnston, Therese Jimenez, M.F., Kristen Hartmann, Isabelle Gmerek, Oak Life Church, Stacey  
 17 Simins, Caitlin Brice, and Cynthia Gormezano (collectively, “Plaintiffs”), filed their Consolidated  
 18 Amended Class Action Complaint against Defendant Zoom Video Communications (“Zoom”)  
 19 (ECF No. 114.)

20           4.       On August 7, 2020 this Court entered a Case Management Order. (ECF No. 117.)  
 21 This Order required Plaintiffs to file their Motion for Class Certification on March 26, 2021, Zoom  
 22 to file its Opposition to the Motion for Class Certification by April 2021, and Plaintiffs to file their  
 23 Reply by May 7, 2021. (ECF No. 117 at 1.) The Court ordered the close of fact discovery to be  
 24 August 28, 2021. (*Id.*)

25           5.       On October 28, 2020, Plaintiffs filed their First Amended Consolidated Class Action  
 26 Complaint. (ECF No. 126).

27           6.       On December 2, 2020, Zoom filed its Motion to Dismiss the First Amended  
 28 Consolidated Class Action Complaint (the “FAC”). (ECF No. 134.)

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1       7. On December 30, 2020, Plaintiffs filed their Opposition to Zoom's Motion to  
 2 Dismiss. (ECF No. 141.)

3       8. On January 21, 2021, Zoom filed its Reply in Support of its Motion to Dismiss.  
 4 (ECF No. 147.)

5       9. On February 5, 2021, the Parties submitted a Joint Statement to Magistrate Judge  
 6 van Keulen, in which Zoom agreed to produce certain documents based on the scope of the FAC.

7       10. On February 22, 2021, the parties submitted a Joint Stipulation to Extend Class  
 8 Certification Deadlines (ECF No. 161), which this Court so-ordered on February 23, 2021 (ECF  
 9 No. 162). This extended Zoom's deadline for rolling production of items it agreed to produce as  
 10 of the February 5, 2021 Joint Statement, set by Magistrate Judge van Keulen (ECF No. 152), from  
 11 March 5, 2021 to April 9, 2021 (ECF No. 156 at 4). Plaintiffs' deadline to move for Class  
 12 Certification was extended to June 25, 2021, Zoom's deadline to oppose to August 13, 2021,  
 13 Plaintiffs' reply to September 3, 2021, and the close of fact discovery to October 29, 2021. (ECF  
 14 No. 156 at 4-5.)

15       11. On March 11, 2021, this Court entered an Order Granting in Part and Denying in  
 16 Part Zoom's Motion to Dismiss the FAC, allowing leave to amend. (ECF No. 168.) Plaintiffs'  
 17 deadline to file any Second Amended Complaint is April 12, 2021.

18       12. On March 23, 2021, the Parties filed a Joint Stipulation extending Zoom's deadline  
 19 to file an Answer to the First Amended Complaint until 21 days after Plaintiffs' deadline to file a  
 20 Second Amended Complaint, or, in the event a Second Amended Complaint is filed, relieving  
 21 Zoom of its obligation to answer, pending resolution of an anticipated Motion to Dismiss the  
 22 Second Amended Complaint.

23       13. Zoom has repeatedly met and conferred with Plaintiffs regarding the scope and  
 24 proportionality of the discovery Plaintiffs have requested to date, which has consistently been  
 25 overbroad, even when considering the scope of Plaintiffs' claims as asserted in the FAC prior to  
 26 the MTD Order.

27       14. The parties have met and conferred at least ten times regarding the scope of  
 28 Plaintiffs' RFPs, including three calls which focused specifically on Plaintiffs' overbroad proposed  
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1 custodians, and five calls focused at least in part on Plaintiffs' overbroad proposed search terms.

2       15. On December 23, 2020, Plaintiffs filed a Notice of Deposition of Zoom Pursuant to  
 3 Federal Rule of Civil Procedure 30(b)(6), noticing 66 topics to be covered by this deposition.

4       16. On January 24, 2021, Zoom responded, proposing 11 topics with multiple sub-parts  
 5 for a total of 22 topics, tied to issues in the FAC.

6       17. On March 16, 2021, Plaintiffs proposed 19 topics with multiple sub-parts for a total  
 7 of 65 topics, which Zoom believes are overbroad as to the FAC, and more so unrelated to the claims  
 8 remaining in the complaint following the MTD decision.

9       18. The Parties met and conferred regarding the scope of these topics on January 8,  
 10 2021, and again on March 18, 2021, and March 26, 2021.

11       19. The Parties have sought relief from Magistrate Judge van Keulen on three occasions  
 12 regarding discovery disputes, which were unable to be resolved between the parties. (ECF Nos.  
 13 135, 150, 157.)

14       20. The Parties today submitted a fourth joint statement regarding a discovery dispute.

15       21. Zoom has met and conferred with Plaintiffs regarding issues related to the motion  
 16 to adjust case deadlines.

17       22. On March 18, 2021, the parties engaged in a meet and confer during which  
 18 Plaintiffs' counsel stated that they "deserve discovery to amend" their complaint. (Hartnett Decl.  
 19 Ex. 1, 3/19 Email from K. Hartnett to T. Redenbarger et al.).

20       23. On March 26, 2021, Zoom sent Plaintiffs a proposed stipulation to modify case  
 21 deadlines and informed Plaintiffs that Zoom would move this Court to adopt that schedule and stay  
 22 discovery pending resolution of Zoom's Motion to Dismiss the Second Amended Complaint absent  
 23 an agreement of the parties. The parties had a meet-and-confer call following that email on which  
 24 Zoom requested Plaintiffs' consent to the proposed case schedule modification. Plaintiffs'  
 25 counsel rejected Zoom's request for a stay, but stated that they would take back Zoom's proposed  
 26 case schedule modification. Plaintiffs' counsel ultimately rejected the proposal via email on  
 27 March 29. (Ex. 2, 3/29 Email from T. Redenbarger to K. Hartnett et al.).

28       24. Zoom has ceased the core practices about which Plaintiffs complain.

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25. Zoom has implemented multiple additional measures, including user education, to help prevent and address meeting disruptions. See, e.g., <https://blog.zoom.us/keep-uninvited-guests-out-of-your-zoom-event/>.

26. Zoom no longer uses the three third-party integrations at issue. See, e.g.,  
<https://blog.zoom.us/zoom-use-of-facebook-sdk-in-ios-client/>; <https://www.nytimes.com/2020/04/02/technology/zoom-linkedin-data.html>.

<https://blog.zoom.us/zoom-rolling-out-end-to-end-encryption-offering/>.

I declare under penalty of perjury pursuant to the laws of the United States of America that the foregoing is true and correct. Executed on March 29, 2021.

/s/ Kathleen Hartnett

Kathleen Hartnett (SBN 314267)

COOLEY LLP  
Attorneys for Defendant  
ZOOM VIDEO COMMUNICATIONS, INC.